



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 200

[Docket No. FR-5444-P-01]
RIN 2502-AJ09

Federal Housing Administration (FHA): Multifamily Accelerated Processing - Enhancing and Strengthening Multifamily Accelerated Processing

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: Multifamily Accelerated Processing (MAP) is a processing system introduced in 2000 as a pilot program to facilitate the accelerated processing of loan applications for FHA multifamily mortgage insurance, which generally involve the refinance, purchase, new construction, or rehabilitation of multifamily properties. These transactions are costly, complicated, and time-consuming to process. Prior to MAP, HUD field offices were encouraged to develop and test individual fast-track processing systems for use by qualified FHA-approved lenders that were experienced in processing loan applications for multifamily mortgages. The intent was to considerably reduce the processing time of applications. These test procedures included providing qualified lenders with the option of preparing FHA forms and undertaking preliminary underwriting for certain types of loan applications. Fast-track processing procedures developed by individual HUD offices that facilitated processing applications without sacrificing quality or increasing risk were consolidated into a national test of fast-track style processing of multifamily mortgage insurance applications under the name “MAP.” MAP has been administered to date through direct instructions to FHA-approved lenders under a MAP Guide.

Given its experience to date with MAP, HUD believes the MAP accelerated processing procedures have been successful. To ensure the continued quality and efficiency of MAP procedures, HUD is codifying in regulations key provisions of MAP and introducing new provisions to strengthen MAP, to assure the integrity and competency of FHA-approved lenders as directed by the Helping Families Save Their Homes Act of 2009.

DATES: Comment Due Date: **INSERT DATE THAT IS 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.**

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500.

Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the www.regulations.gov website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an appointment to review the public comments must be scheduled in advance by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Terry W. Clark, Office of Multifamily Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW, Room 6134, Washington DC 20410; telephone number 202-402-2663 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. MAP

The purpose of MAP is to have in place an accelerated system for processing FHA multifamily mortgage insurance applications that is consistent at each HUD multifamily processing office, and that significantly reduces the amount of time that HUD staff spends

reviewing those applications. Under MAP, the lender is responsible for preparation of most of the application exhibits, such as the appraisal, and for making a recommendation to HUD based upon the lender's processing and underwriting. This results in a considerable time savings for the lender. For example, under MAP, FHA-approved lenders are provided an earlier review of the application for insurance on new construction and substantial rehabilitation. Therefore, if the application is rejected at a pre-application stage, the lender and borrower do not spend the time and money required to prepare the more extensive exhibits and analysis for the application for an FHA firm commitment. While considerable responsibility for preparation of documents and initial review is placed with the lender, FHA still reviews a lender's exhibits and makes the final underwriting decision.

MAP is not automatically available to all FHA-approved lenders. To use MAP, an FHA-approved lender must apply for approval and be approved as a MAP lender by HUD's Office of Multifamily Housing Development, Lender Qualification and Monitoring Division (LQMD). The appraisers and MAP-approved underwriters of the FHA-approved lender seeking MAP-lender designation must also attend a MAP training session. Lenders that are approved as MAP lenders are determined by HUD to be skilled in underwriting multifamily housing loans and in the preparation of applications for FHA multifamily mortgage insurance. Approval is on a nationwide basis; consequently, the MAP lender may submit applications using MAP regardless of where the property is located or which Multifamily Hub or Program Center will be processing the loan. As a condition of the opportunity to use MAP, a MAP lender's MAP loans are subject to post-endorsement review by LQMD. MAP-lender approval will be for a defined period, and may be renewed, denied renewal, or terminated by FHA as provided in this proposed rule. For

example, if the MAP lender fails to meet HUD standards for underwriting loans, its MAP designation also may be terminated.

Under the current MAP system, MAP may be used for the following FHA-insured multifamily programs: Section 220 (apartments in urban renewal areas), Sections 221(d)(3) and 221(d)(4) (apartments), Section 223 (a)(7) (refinance of existing insured properties), Section 223(f) (acquisition or refinancing of existing apartments), and Section 231 (housing for the elderly) new construction or substantial rehabilitation. MAP may be used for such other FHA-insured multifamily programs as may be announced by FHA.

From the outset, through MAP, FHA has strived to strike a careful balance between expedited processing and ensuring an acceptable level of risk for HUD's multifamily mortgage insurance programs. Based on HUD's experience to date with MAP, this proposed rule strives not only to maintain that balance but to enhance the quality, competency, and integrity of FHA-approved lenders that are approved as MAP lenders and to manage risk to a level that is acceptable to FHA.

B. MAP Today

The MAP program has changed significantly in recent years. Since its commencement in 2000, there are now more than 100 FHA-approved MAP lenders. Multifamily loan volume has increased seven-fold, while the number of HUD multifamily housing staff has declined. Transactions are larger and more complex than in the past, and mixed-use projects with commercial components are more common. Most projects have market rents and fewer than in the past are supported by rental assistance. The insured portfolio is growing quickly, but with some concentrations in markets that have experienced soft or deteriorating conditions, and with repeat borrowers in some markets. MAP is increasingly used for affordable housing construction

and preservation projects with tax credits and other subsidies, and these transactions require special expertise to process.

C. Strengthening the Quality of FHA-Approved Lenders and Underwriters

Part of the impetus to review the MAP system, particularly the qualifications of an FHA-approved lender to engage in MAP, and to codify lender qualifications and the core requirements of MAP, is the Helping Families Save Their Homes Act of 2009 (HFSH Act). The HFSH Act (Division A of Public Law 111–22, approved May 20, 2009), among other things, directs FHA to strengthen the existing FHA lender approval process, including by ensuring that only lenders of integrity are approved by FHA as approved mortgagees.

FHA responded to this statutory direction by taking several steps. Shortly following enactment of the HFSH Act, FHA issued Mortgagee Letter 2009-31, entitled “Strengthening Counterparty Risk Management,” which advised FHA-lenders of the additional ineligibility criteria established by the HFSH Act, and the immediate applicability of such criteria. FHA also issued Mortgagee Letter 2009-41, which addressed Appraisal Performance Standards and Sanctions, and that reminded FHA-approved lenders of their responsibility, along with the appraisers, for the quality and accuracy of appraisals. By final rule issued on April 20, 2010 (75 FR 20718), FHA increased the net worth requirements of FHA-approved lenders, both single family and multifamily lenders. These increases were the first since 1993, and were adopted to ensure that FHA-approved lenders are sufficiently capitalized for the financial transactions occurring, and the concomitant risks present, in today’s economy. On May 2, 2011, at 76 FR 24507, FHA announced the update of 36 multifamily rental project loan-closing documents, the majority of which had not been updated in more than two decades. The updated closing documents reflected the greater flexibility provided to lenders to address problems that arise in

management of the property, but also greater responsibility to undertake increased due diligence to assure sound underwriting in insured multifamily projects.

All these steps that have been taken are directed to raising the level of competency and integrity of participating lenders, and ensuring the continued viability and availability of FHA mortgage insurance programs. This proposed rule, which addresses the MAP system, is another such step to strengthen FHA, its programs, and participants, and is consistent with recent Congressional direction for FHA to focus on minimize risk in its multifamily housing programs. In the Senate Committee Report that accompanied the Senate bill, S.1596, which provides Fiscal Year (FY) 2012 appropriations for HUD, the Committee noted that as a result of the housing crisis, the demand for FHA multifamily housing loans has increased, and stated: “In an effort to respond to this increased demand, HUD is streamlining its multifamily processes and updating its programs to address current market conditions. The Committee also expects FHA to increase its attention to the additional risk this volume brings, and expects FHA to dedicate the same level of attention to risks in the multifamily program as it has to risks in its single family program.” (See Senate Report 113-83, issued September 21, 2011, at page 135.) The changes proposed by this rule, as discussed in the following sections of this preamble, will not only improve the MAP system, by increasing efficiency in the system, but also reduce risk to FHA.

II. This Proposed Rule

This rule proposes to establish codified regulations for lender and underwriter eligibility and tier qualification criteria for MAP participation, and for FHA’s process for approving MAP lenders and underwriters. Currently, HUD’s MAP regulations, codified in 24 CFR part 200, subpart Y, address only the enforcement actions that FHA may take against a MAP lender. As the following discussion will highlight, enforcement actions remain a key part of the regulations,

but HUD proposes, through this rule, to add new provisions to 24 CFR part 200, subpart Y, to provide for a tiered approval system, the periodic expiration of approval, and lender application for reapproval under the MAP system.

New regulatory section, § 200.1401, entitled “Purpose of MAP and this Subpart,” reflects the broader scope of the MAP regulations as proposed to be revised to this rule, and new section § 200.1403, the definition section, defines terms used in the proposed revised regulations. New regulatory section, § 200.1407, sets out the responsibilities of the MAP lender. These responsibilities reflect the obligation of the MAP lender to not only ensure the skill and competency of the lender’s principal staff members, but to also ensure that the MAP lender is operating with the integrity contemplated by the HFSH Act.

A. Tiered MAP Lender and Underwriter Approval

The MAP approval tiers, set out in § 200.1411(b) and § 200.1413(b), are based on HUD’s experience in administering the MAP program, which has shown that the most difficult programs to underwrite are those for new construction and substantial rehabilitation or that involve various sources of government assistance. HUD recognizes that all MAP lenders and underwriters do not necessarily have the skills and experience to competently handle all the MAP programs. Tiered approval will assure that MAP programs with greater underwriting demands and higher risk will require participants to have greater expertise. Both new and existing lenders and underwriters must comply with tier requirements to submit an application under MAP and must be approved by tier based upon meeting the tier qualifications. Section 200.1413 of the proposed rule set outs the lender eligibility and application process for MAP approval.

Section 200.1415 of the proposed rule establishes the MAP eligibility and application approval process for underwriters. The addition of a separate MAP eligibility and approval process for underwriters underscores the significance of having an experienced and skilled underwriter for MAP processing. Consistent with § 200.1415 concerning underwriter eligibility, § 200.1425 provides for post-approval training for underwriters, and § 200.1427 provides that HUD may terminate the approval of an underwriter that has not submitted a pre-application or application for Firm Commitment for a period of 2 years.

The tier approval designation for which MAP lenders and underwriters will be approved will be based on their multifamily transaction experience, as evidenced by recently closed loans and each loan's performance. As provided in § 200.1411(b), HUD will establish four approval tiers:

Tier 1: market-rate refinancing under Section 223(f) or 223(a)(7);

Tier 2: refinancing under Section 223(f) or Section 223(a)(7) of affordable housing properties with government subsidies;

Tier 3: market-rate new construction or substantial rehabilitation under Section 220, 221(d), 231 or 241;

Tier 4: new construction or substantial rehabilitation under Sections 220, 221(d), 231, or 241 of affordable housing properties with government subsidies. Government subsidies refer to such programs as the Low-Income Housing Tax Credit (LIHTC) program, tax-exempt bond financing, HUD's Section 8 Project-Based Rental Assistance program, and HUD's Section 236 Interest Reduction Payments and similar forms of rental subsidy for affordable housing.

As provided in the accompanying notice, published elsewhere in today's Federal Register, HUD will from time to time issue the quantity, specific characteristics, and recentness

of transactions that a lender or underwriter must have underwritten in order to have the adequate recent experience required for each tier. Each issuance will be preceded by notice and the opportunity for public comment. The relevant lending experience that HUD will recognize need not be exclusively with FHA programs, but may also be with those of Fannie Mae, Freddie Mac, state housing finance agencies, conventional lenders, or commercial banks. Non-FHA loan program experience must be equivalent to the programs offered under MAP and to the underwriting functions required under MAP, to be given credit. For current MAP lenders and underwriters, relevant lending activity involving MAP programs will be given the most weight. Consistent with HUD's commitment to notify MAP lenders or prospective MAP lenders of changes to the requisite experience needed, § 200.1417(a)(1)(iii) provides for HUD to limit the size of a loan that an approved MAP lender may process, with such limitation established either by the number of units for which a loan can be made or by the dollar amount of the loan. Although an applicant may meet the criteria for approval as a MAP lender at a requested tier or at a lower tier, HUD may decide, based on the applicant's MAP application and experience to date, or based on the conditions of the housing market at the time, that limitations should be placed on the size of loans processed by a MAP lender or lenders.

With respect to tier approval, § 200.1423 permits an approved MAP lender or underwriter to submit an application at any time requesting approval at a higher tier than originally assigned to the MAP lender or underwriter. In determining whether the MAP lender or underwriter meets the criteria for a higher tier, HUD will follow the procedures in §§ 200.1413, 200.1415, and 200.1417.

B. Periodic Renewal of MAP Lender Approval

A key goal of this proposed rule is to assure a high level of quality and integrity of

FHA-approved lenders that are approved to be MAP lenders. As provided in § 200.1407, a MAP-approved lender is given considerable authority and responsibility in the processing of multifamily mortgage transactions. Given the trust and responsibility that FHA places in these lenders, it is important for FHA to ensure that these lenders, not only at the time of initial MAP lender approval but throughout the lenders' tenure as MAP lenders, remain lenders of competency and integrity, and are up-to-date on changes in multifamily transactions and skilled and experienced in underwriting and processing loan applications for these transactions. The expiration of MAP lender approval and the requirement to apply periodically for renewal of MAP-approval designation will help ensure that MAP lenders remain competent to fast-track multifamily mortgage insurance applications through the MAP system.

Currently, MAP approval designation does not expire unless there is an enforcement action that results in termination, or there is an eligibility requirement that the FHA-approved lender no longer meets. As provided in § 200.1417(b), this rule proposes to change the existing MAP system by requiring MAP approved lenders to apply to renew their approval every 4 years. At such time, the MAP lender's performance will be reviewed and FHA will determine whether the MAP-approval designation should be renewed. This proposed rule provides in § 200.1421, that no later than 90 days before the date of the end of the 4-year period of a MAP lender's approval, the MAP lender must reapply for approval. The requirement to renew MAP-lender designation allows FHA to assess the lender's 4-year performance as a MAP lender, and determine whether the FHA-approved lender's designation as a MAP lender should be renewed or disapproved, and if it should be renewed at the tier for which the FHA-approved lender was previously approved or at a lower tier, if so warranted.

For example, FHA may determine that the MAP lender's experience during the preceding 4 years is not sufficient or at a level of performance for the FHA-approved MAP lender to maintain its current tier approval; however, the FHA-approved MAP lender can be renewed under a lower tier at which its performance has been satisfactory. The proposed period for MAP approval is based on HUD's experience that MAP lenders' performance, underwriting practices, and business processes typically evolve over time as changes in personnel, management, and market conditions occur. As a result, the capacity of the institution may be markedly different from when it was originally approved and assigned to a tier by HUD. HUD has determined that a 4 year approval period appropriately balances the need to protect the FHA insurance fund with HUD's desire to minimize inconvenience to lenders. Upon application for renewal, the lender's record, including any sanctions or enforcement actions taken against the lender, its default and claim rates, and the overall performance of its underwritten or closed loans will be taken into account when determining whether MAP approval should be renewed or disapproved. Although a lender's initial and ongoing MAP approval period will normally be for 4 years, the term of approval may be shorter based upon a review of the lender's application and record.

C. Conditional MAP Approval and Expiration of Existing MAP Approvals

The proposed rule provides, in § 200.1417(b)(3), that FHA may also grant conditional MAP lender or underwriter approval if the lender or underwriter lacks experience in processing or underwriting FHA loan applications. If the lender or underwriter satisfies the conditions imposed by FHA, for example, by undertaking additional training within a specified period of time or completing a predetermined number of acceptably underwritten closings, then full approval may be granted upon completion of the condition. Conditional approval, however, will not be indefinite. FHA will impose a deadline for the completion of the conditions for which full

approval is necessary, usually one year from the date on which conditional approval is granted. Conditional approval may be granted for initial MAP approval, or may be granted in cases where a currently approved MAP lender requests an upgrade in tier approval.

The proposed rule provides, in § 200.1419, that MAP lender and underwriter approvals issued prior to the effective date of the final rule under this rulemaking will expire 45 days following the lender's or underwriter's receipt of a letter from HUD inviting the lender or underwriter to apply for tier approval. HUD anticipates that it will send such letters to approximately 25 percent of lenders and underwriters with existing approvals per year, for 4 years, and that this pace may vary depending upon HUD's resources for processing applications. If the lender or underwriter submits a timely application for tier approval, the existing approval will continue to be valid until HUD notifies the applicant of the action it is taking on the application for tier approval. A lender or underwriter that fails to respond in a timely manner to the letter will be eligible for approval at Tier 1 for a period of time as provided for conditional approvals in § 200.1417(b).

D. Other Provisions of the Proposed Rule

Additional New Regulatory Sections

In addition to the new sections discussed above in this preamble, new § 200.1405 addresses the multifamily programs eligible for MAP processing, which will be posted on HUD's website; such postings will ensure that the most up-to-date list of eligible MAP multifamily programs is available to the public. As noted earlier, § 200.1407 lists the responsibilities of a MAP lender. As also noted earlier, § 200.1413(b) addresses the tier-specific criteria that lenders must meet. Paragraph (a) of this section, § 200.1413(a), addresses the general requirements for MAP-lender approval. Section 200.1419 addresses appeals, and

provides that an applicant may submit a written appeal of any HUD decision regarding the applicant under §§ 200.1411 through 200.1427. This section provides that the appeal must be submitted to HUD within 30 days of the date of the applicant's receipt of HUD's written notification to the applicant of its decision. This section also provides that HUD will respond to the applicant's appeal within 60 days of HUD's receipt of the applicant's appeal, and that if HUD's appeal decision confirms HUD's original decision, no further appeals will be accepted.

Existing Regulatory Sections

As noted earlier in this preamble, this proposed rule builds upon the existing regulations in 24 CFR part 200, subpart Y, which currently address MAP enforcement and sanctions. The enforcement provisions remain in place with certain organization revisions. For example, the proposed rule would eliminate provisions vesting existing authorities to undertake certain enforcement and corrective actions against MAP lenders and underwriters in a MAP Lender Review Board. HUD has found that it is unnecessary to create and maintain such a board because it is duplicative of other offices within HUD, such as the Lender Qualifications and Monitoring Division that are responsible for monitoring and ensuring compliance with MAP requirements. This change would not alter the existing authorities to take such actions, nor the procedural protections, including notice and opportunity to be heard, that are provided in § 200.1535. Rather, it would merely revise provisions that currently specify that it is the MAP Lender Review Board that is vested with the authorities. Accordingly, existing references to the MAP Lender Review Board in 24 CFR part 200, subpart Y, would be replaced simply with references to HUD. HUD would specify the office or official that would carry out these functions through its ordinary delegations process. At the final rule stage, HUD will include

amendatory instructions that will make a nomenclature change throughout subpart Y to substitute “HUD” wherever the terms “the MAP Lender Review Board” and “Board” appear.

E. Proposed MAP Rule – Increasing Efficiency and Reducing Burden

Since its inception, MAP has been shown to increase efficiency in processing multifamily mortgage applications without increasing risk to FHA. Under the current structure, an approved lender or underwriter can originate any qualifying multifamily mortgage. This rule proposes to further increase efficiency by approving lenders and underwriters for one of four tiers based on their origination experience.

The primary benefit of changes proposed by this rule is to further increase the efficiency and processing of multifamily mortgage applications. The tiered structure will decrease the number of rejected applications, reducing time spent by lenders and FHA staff in reviewing applications. This change will be accomplished by better aligning lenders and underwriters with the programs with which they are most experienced. FHA does not expect a change in volume of their multifamily originations as a result of the creation of tiers within the MAP program or a significant shift of business between lenders within MAP. Instead, HUD expects that the number of unsuccessful applications will decrease.

In FY 2011, approximately 230 multifamily mortgage applications were not approved. FHA staff spent approximately 400 hours processing MAP mortgage applications. The Bureau of Labor Statistics reports almost \$40 per hour as the median wage for government employees in financial operations. Meanwhile, lenders spent about 450 hours of staff time preparing applications for new construction or substantial rehabilitation and approximately 300 hours of staff time on mortgage applications for refinance. Based on HUD’s knowledge of the industry, the hourly rate for staff preparing applications is approximately \$75. If implementation of the

changes proposed by this rule is successful in eliminating 75 percent of these unapproved applications, FHA would save \$2.772 million in staff time and lenders would save \$5.003 million in staff time. In sum, this proposed rule can be expected to produce benefits totaling \$7.775 million.

Table 1: Avoided Staff Time Preparing Unsuccessful Mortgage Applications

	Number of Applications*	Hours per Response	Hourly Cost	Total Annual Cost
FHA				
New Construction/Substantial Rehabilitation	98	400	\$40	\$1,572,000
Refinance	75	400	\$40	\$1,200,000
FHA Subtotal				\$2,772,000
Lenders				
New Construction/Substantial Rehabilitation	98	450	\$75	\$3,315,938
Refinance	75	300	\$75	\$1,687,500
Lender Subtotal				\$5,003,478
Total Costs				\$7,775,489

* Number of Applications is approximately 75 percent of the number of unapproved MAP mortgage applications in FY 2011.

In addition to creating tiers, this rule proposes to require renewal as a MAP lender every 4 years.¹ This new requirement will increase costs to participating lenders as additional staff time will be spent preparing the MAP renewal application. There are currently 92 approved MAP lenders. FHA estimates that lenders spend about 40 hours preparing documents for each MAP approval. Following the initial tier placement, lenders may subsequently decide to apply for adjustment to a higher tier (before the 4-year period ends). FHA expects about ten underwriters and five lenders to apply for adjustment to a higher tier, requiring about 20 hours

¹ Currently approved lenders will be required to submit an application of renewal, with about one-quarter renewing annually over a 4-year period.

per application. Finally, although FHA currently receives several appeals each year, the number could increase slightly as a lender could appeal not only a rejection but also the tier in which the lender is placed. In FY 2011, only two appeals were filed for denied applications. FHA does not expect an increase of more than three appeals annually as a result of the change to a tiered system. Preparation of each appeal by a lender or underwriter is expected to require one hour of applicant time.

Based on knowledge of industry wages, the estimated hourly wage of lenders and underwriters that prepare these types of documents is approximately \$100. The table below shows the total cost estimate per category. The total cost to lenders and underwriters as a result of this rule would be \$398,300.

Table 2: Costs of Renewal, Adjustment, and Appeals

Type	Number	Hours per Response	Hourly Cost	Total Annual Cost
Lender Renewal	92	40	\$100	\$368,000
Adjustment to Higher Tier	15	20	\$100	\$30,000
Appeals	3	1	\$100	\$300
Total Costs				\$398,300

As a processing system, much of the processes of MAP as the above tables reflect pertain to information collection (that is, submission of documentation to HUD and HUD review of the documentation) or recordkeeping. The MAP information collection requirements are subject to the notice and comment procedures of the Paperwork Reduction Act of 1995 (PRA). The requirements are currently approved under PRA and reflect OMB approval numbers. Consistent with the requirements of the PRA, these requirements must be published for notice and comment every 3 years. The changes that this rule would make to the current information collection requirements are set out in the table provided in the following section of the preamble, Section

IV, and the public comment that this rule solicits also solicits comment on the reporting and recordkeeping burden.

III. Regulatory Review

Executive Order (EO) 13563, entitled “Improving Regulation and Regulatory Review,” was signed by the President on January 18, 2011, and published on January 21, 2011 (76 FR 3821). This EO requires executive agencies to analyze regulations that are “outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.” Section 4 of the EO, entitled “Flexible Approaches,” provides, in relevant part, that where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, each agency shall identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. HUD submits that the changes proposed by this rule to the MAP system are consistent with the EO’s directions. As the preceding section discussed, the changes proposed by this rule will increase efficiency in the MAP system both for HUD and MAP approved lenders.

IV. Findings and Certifications

Paperwork Reduction Act

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

The burden of the information collections in this rule is estimated as follows:

REPORTING AND RECORDKEEPING BURDEN:

Information Collection	Number of Respondents	Response Frequency (average)	Total Annual Responses	Burden Hours Per Response	Total Annual Hours
§ 200.1413(c) (application for approval of tier qualification)	10 new applicants	Annually	10	40 hours	400 hours
§ 200.1415(b) (underwriter's application for MAP approval)	60 underwriters	Annually	60	20 hours	1,200 hours
§ 200.1421 (renewal of MAP lender approval)	23 lenders renewing annually	Annually	23	20 hours	460 hours
§ 200.1421 (adjustment of approval to a higher tier)	10 underwriters and 5 lenders applying annually	Annually	15	20 hours	300 hours
§ 200.1429 (appeals)	5 appeals	Annually	5	1 hour	5 hours
Total	113		113	101	2,365 hours

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning this collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this rule. Comments must refer to the proposal by name and docket number (FR-444-P-01) and must be sent to:

HUD Desk Officer
Office of Management and Budget
New Executive Office Building
Washington, DC 20503
Fax: (202) 395-6947

and

Reports Liaison Officer
Office of Housing
Department of Housing and Urban Development
451 7th Street, SW, Room 9116
Washington, DC 20410

Interested persons may submit comments regarding the information collection requirements electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. MAP lenders consist of both small and large FHA-approved lenders that have the skill and experience to take on responsibilities that would otherwise be handled by FHA staff in the processing of applications. The system commenced as a demonstration to determine whether multifamily mortgage insurance applications could be

processed on an accelerated basis without risking the quality of processing and without increasing risk to the FHA insurance fund. Overall, the MAP system has been effective, and HUD is proposing to codify, in regulation, key requirements of the MAP system.

Through this rule, HUD is proposing improved oversight of the MAP system, to meet the statutory directive that HUD ensure that only lenders of integrity are approved by FHA as FHA-approved mortgagees, and remain lenders of integrity, competency, and skill after FHA approval is granted. HUD is not proposing significant changes to participation in the MAP system. The eligibility requirements essentially remain the same, with only minor adjustment to ensure that the lenders have experience in processing the more complex transactions. However, HUD is proposing that MAP lenders have their MAP approval designation renewed every 4 years. This renewal-approval process will improve the quality of monitoring of MAP lenders by HUD, because the renewal process provides for a minimum performance review of the MAP lender by HUD every 4 years. The new requirements introduced by HUD through this proposed rule pertain to a MAP lender's performance, regardless of whether the MAP lender is small or large.

The codification of the eligibility criteria, together with HUD's oversight requirements, which are already codified, will provide a convenient location for FHA-approved lenders and other interested parties to reference the key features and requirements of the MAP system. For these reasons, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Notwithstanding HUD's determination that this rule would not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding less burdensome alternatives to this rule that would meet HUD's objectives as described in this preamble

Environmental Impact

This rule does not direct, provide for assistance or loan and mortgage insurance or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. The rule is, therefore, categorically excluded under 24 CFR 50.19(c)(k1) and a Finding of No Significant Impact (FONSI) does not need to be prepared for this document.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of section 6 of the executive order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the executive order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1531-1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule does not impose any federal mandate on any state, local, or tribal government or the private sector within the meaning of UMRA.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Lead poisoning, Loan programs—housing and community development, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social Security, Unemployment compensation, Wages.

For the reasons stated in the preamble, HUD proposes to amend 24 CFR part 200, as follows:

PART 200—INTRODUCTION TO FHA PROGRAMS

1. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1702–1715z–21; 42 U.S.C. 3535(d).

2. Revise the heading of subpart Y and add §§ 200.1401, 200.1403, 200.1405, 200.1407, 200.1409, 200.1411, 200.1413, 200.1415, 200.1417, 200.1419, 200.1421, 200.1423, 200.1425, 200.1427, and 200.1429, and undesignated headings, and revise the subpart table of contents to read as follows:

Subpart Y—Multifamily Accelerated Processing (MAP): Eligibility, Approval, Quality

Assurance, and Enforcement for MAP Lenders and Underwriters

GENERAL

Sec.

200.1401 Purpose of MAP and this subpart.

200.1403 Definitions.

200.1405 FHA programs eligible for MAP processing.

200.1407 MAP lender responsibilities.

APPROVAL OF LENDERS AND UNDERWRITERS

200.1411 Approval required.

200.1413 Lender eligibility and application for MAP approval.

200.1415 Underwriter eligibility and application for MAP approval.

200.1417 HUD's review of MAP lender and underwriter approval applications.

200.1419 Expiration of previously granted MAP approvals.

200.1421 Renewal of lender approval.

200.1423 Adjustment of approval to a higher tier.

200.1425 Post-approval underwriter training requirement.

200.1427 Inactive underwriters.

200.1429 Appeals.

MAP LENDER QUALITY ASSURANCE ENFORCEMENT

200.1500 Sanctions against a MAP lender.

200.1505 Warning letter.

200.1510 Probation.

200.1515 Suspension of MAP privileges.

200.1520 Termination of MAP privileges.

200.1525 Settlement agreements.

200.1530 Bases for sanctioning a MAP lender.

200.1535 MAP Lender Review Board.

200.1540 Imminent harm notice of action.

200.1545 Appeals of sanction decisions.

GENERAL

§ 200.1401 Purpose of MAP and this subpart.

(a) MAP is a national accelerated processing system for the FHA multifamily mortgage insurance programs. An FHA-approved lender that is approved to process multifamily mortgage insurance applications under MAP is responsible for preparation of the majority of the exhibits involved in the processing of a multifamily mortgage insured by FHA, such as the appraisal required for an application for mortgage insurance, and for making a recommendation to HUD based upon the lender's processing and underwriting. HUD, however, reviews the lender's exhibits and makes the final underwriting decision.

(b) This subpart establishes the criteria by which a new or existing FHA-approved lender or underwriter receives and maintains MAP approval, the basic responsibilities of a MAP lender, the manner in which FHA will monitor a MAP Lender's performance, the enforcement actions that FHA may take against a MAP lender for violation of requirements, and the due process procedures available to a MAP lender. Unless superseded by the requirements of this part, the MAP processing instructions, submission, and reporting requirements issued through supplemental guidance remain applicable to the MAP system.

§ 200.1403 Definitions.

The definitions in 24 CFR 200.3 are applicable to this subpart. Additionally, as used in this subpart:

Government subsidy means one or more of the following: Low-Income Housing Tax Credits, Section 8 Project-Based Rental Assistance, Rent-restricted bond financing, Section 236

Interest Reduction Payments, and any other similar form of affordable housing subsidy, as identified by HUD.

In good standing means being in compliance with all applicable FHA and MAP requirements, not being in inactive status (in accordance with § 200.1427, as applicable), not being subject to or under consideration for MAP approval, suspension, or termination and, in the case of a lender, being approved to participate in FHA Multifamily Mortgage Insurance programs as a supervised lender or mortgagee or nonsupervised lender or mortgagee.

Principal means a primary participant of the lender entity, who is empowered to act as the lender's representative.

Principal staff members refer to those persons designated by the lender as approved MAP underwriter(s), construction loan administrator(s), and other authorized signatory(s) with authority to bind the lender on MAP loan applications.

§ 200.1405 FHA programs eligible for MAP processing.

FHA-insured multifamily programs that are eligible for processing under MAP are listed on HUD's website at www.hud.gov.

§ 200.1407 MAP lender responsibilities.

(a) A MAP lender shall comply with such processing instructions, submission, and reporting requirements through the regulations of this subpart and as may be otherwise specified by HUD through supplemental guidance.

(b) A MAP lender must submit to the HUD office, as designated by HUD, the qualifications of the MAP lender's principal staff members or consultants who will be reviewing or preparing the lender's application for mortgage loan insurance.

(c) MAP lenders must establish and maintain separation between the underwriting and origination functions to ensure that individuals performing underwriting functions do not face any incentive to approve a loan that does not meet applicable underwriting standards. Minimum standards for establishing and maintaining such separation include, but are not limited to, the following:

(1) An individual may not underwrite or participate in underwriting a loan if the individual will receive or expects to receive either directly or indirectly any compensation that is contingent upon origination of that loan;

(2) Underwriting staff are not evaluated by origination staff, and compensation of underwriting staff shall not be tied to loan production levels;

(3) Underwriters must be full-time, salaried employees of the lender and may not be independent contractors or temporary workers;

(4) Origination staff shall be precluded from hiring contractors, such as appraisers or market analysts, on behalf of underwriters; and

(5) MAP lenders shall ensure that origination staff does not have management authority over or influence on the duties or conclusions of underwriting staff.

(d)(1) A MAP lender must submit annually to HUD, in accordance with procedures specified by HUD, including, but not limited to, the requirements of 24 CFR 200.62, an update of MAP lender status, certified by an individual who is authorized to bind the MAP lender. The certified update must be submitted no later than June 30 of each year and must:

(i) List the names of the following individuals:

(A) The MAP lender's MAP-approved underwriters and the tiers at which they are approved;

(B) The MAP lender's construction loan administrators (if applicable); and

(C) Individuals who are authorized to bind the MAP lender by signing FHA mortgage insurance applications; and

(ii) State that all of the MAP lender's MAP-approved underwriters have received tier approval and have attended the training required under § 200.1425.

(2) False claims and statements may result in criminal and civil penalties pursuant to 12 U.S.C. 1735f-14, 18 U.S.C. 1001, 1010, 1012, and 31 U.S.C. 3729, 3802.

APPROVAL OF LENDERS AND UNDERWRITERS

§ 200.1411 Approval required.

(a) General. A lender may not process and an underwriter may not underwrite a loan application utilizing MAP unless:

(1) The lender is approved by and is in good standing with HUD as a MAP lender for the loan transaction for which the application is submitted; and

(2) The underwriter who will underwrite the loan and sign the underwriter's narrative is approved by and is in good standing with HUD as a MAP underwriter for that lender and for the tier designation and loan program under which the application is submitted. Approval as a MAP underwriter does not entitle an underwriter to underwrite loans for a lender other than for the MAP-approved lender that submitted the underwriter application approved by HUD. A MAP-approved lender that employs an underwriter previously approved as an underwriter for another MAP-approved lender must submit an application for underwriter approval in accordance with § 200.1415(b), and HUD will evaluate the application and take action in accordance with § 200.1417.

(b) Tiered approval. HUD will provide approvals and renewals of approvals of new and existing MAP lenders and underwriters on a tiered basis in accordance with a lender's or underwriter's experience and qualifications at the time of application. A MAP lender or underwriter may not use MAP to process or underwrite loan transactions that are not covered by the lender's or underwriter's approval tier ("covered loan transactions"), which are as follows:

(1) Tier 1: MAP-eligible acquisition and refinancing programs without government subsidies;

(2) Tier 2: MAP-eligible acquisition and refinancing programs with or without government subsidies;

(3) Tier 3: All MAP-eligible programs without government subsidies; and

(4) Tier 4: All MAP-eligible programs, with or without government subsidies.

(c) Nationwide validity. Approval as a MAP lender or underwriter, which includes approval at a particular tier, is valid for transactions nationwide, regardless of where the property that will serve as the security for the mortgage is located or which HUD office will process a transaction. Approved lenders and their approval tier will be posted on HUD's website, which will be regularly updated to reflect any change in the lender's tier or MAP-approval status.

§ 200.1413 Lender eligibility and application for MAP approval.

To be eligible for designation as a MAP lender, a lender must meet the general requirements under paragraph (a) of this section and the applicable tier-specific requirements under paragraph (b) of this section. HUD will not approve the application of a lender that does not meet the Tier 1 requirements.

(a) General requirements. The lender:

(1) Must be approved as an FHA-approved lender under parts 202 of this chapter;

(2) Must not be subject to judgments arising from lawsuits or administrative proceedings that would adversely impact its ability to conduct business as a lender, or subject to any of the ineligibility criteria specified in 24 CFR 202.5(j); and

(3) Must have an employee who is approved by HUD as a MAP underwriter.

Application for the qualifying MAP underwriter approval may be submitted prior to or simultaneously with a lender's application for MAP-lender approval.

(b) Tier-specific requirements. For a lender to obtain approval at a specific tier:

(1) The lender must have adequate capacity and experience in processing and in underwriting covered loan transactions for that tier using FHA insurance programs, or non-FHA transactions that are equivalent to covered transactions for that tier.

(i) A non-FHA transaction will be deemed the equivalent of using FHA insurance programs for a covered transaction for a tier if HUD determines that the quality and scope of underwriting and processing required and actually performed for the non-FHA transaction are equivalent to that required using FHA insurance programs for the covered transaction. Non-FHA transactions that may be used to demonstrate tier qualifications include those of Fannie Mae, Freddie Mac, state housing finance agencies, conventional lenders, and commercial banks;

(ii) HUD will from time to time issue the quantity, specific characteristics, and recentness of transactions that a lender must have processed or underwritten in order to have the adequate recent experience required for each tier. Each issuance will be preceded by notice and the opportunity for public comment.

(2) The lender must have a satisfactory record processing and underwriting covered transactions for the tier at which approval is requested. In reviewing the lender's record, HUD

will consider enforcement actions taken against the lender, warning letters issued to the lender, the lender's default and claim rates, and the overall performance of its previously underwritten or closed loans.

(c) Application. (1) The lender must submit an application for MAP approval or for tier qualification in such form as required by HUD, demonstrating that the lender meets the applicable eligibility requirements under this section.

(2) HUD may from time to time announce its suspension of acceptance of applications under this section. The announcement shall specify the reasons for the suspension of acceptance of applications.

(3) An FHA-approved lender that has had its MAP lender designation terminated may not submit an application for MAP lender designation for a period of one year following the date of termination of the prior MAP lender designation.

§ 200.1415 Underwriter eligibility and application for MAP approval.

(a) To be eligible for designation as a MAP underwriter, an individual must be a full-time employee of the lender that is seeking or has received approval as a MAP Lender, and must have adequate experience in underwriting covered loan transactions using FHA insurance programs for the specific tier for which the underwriter seeks designation, or non-FHA transactions that are equivalent to covered transactions for that tier.

(1) A non-FHA transaction will be deemed the equivalent of using FHA insurance programs for a covered transaction for a tier if HUD determines that the quality and scope of underwriting and processing required and actually performed for the non-FHA transaction are equivalent to that required using FHA insurance programs for the covered transaction. Non-

FHA transactions that may be used to demonstrate tier qualifications include those of Fannie Mae, Freddie Mac, state housing finance agencies, conventional lenders, and commercial banks.

(2) HUD will from time to time issue the quantity, specific characteristics, and recentness of transactions that an underwriter must have underwritten in order to have the adequate recent experience required for each tier. Each issuance will be preceded by notice and the opportunity for public comment.

(b) A lender must submit an underwriter's application for MAP-underwriter approval or for underwriter-tier qualification in such form as required by HUD that demonstrates that the underwriter meets the applicable eligibility requirements under this section.

§ 200.1417 HUD's review of MAP lender and underwriter approval applications.

(a) HUD will review a MAP lender or underwriter approval application, along with any information from HUD offices where the applicant's prior loan applications or exhibits have been submitted within the preceding time period specified by HUD.

(1)(i) If HUD determines that the applicant meets the criteria for approval in § 200.1413 or § 200.1415, as applicable, the applicant is eligible for approval for the requested tier and HUD will notify the applicant of its decision to designate the lender or underwriter as a MAP lender or underwriter under the tier for which the lender or underwriter applied.

(ii) If HUD determines that the applicant does not meet the criteria for the requested tier but the applicant meets the criteria for approval at a lower tier, HUD may approve the application at the lower tier. In such a case, HUD will notify the applicant of its eligibility for approval at a lower tier and advise the applicant of the reasons that HUD did not approve the applicant at the requested tier.

(iii) Whether HUD approves an applicant at a requested tier under paragraph (a)(1)(i) of this section or at a lower tier under paragraph (a)(1)(ii) of this section, HUD reserves the right to limit the number of units or the dollar amount per loan application that an approved applicant may process, when HUD determines that there is a necessity to limit the loans being processed to such amount or size, as HUD may specify by notice.

(2) If HUD determines that the applicant does not meet the criteria for approval in § 200.1413 or § 200.1415, as applicable, HUD will disapprove the application and notify the applicant of its decision and of the reason for the disapproval.

(3) If HUD is unable to determine the eligibility of an applicant, HUD may, at its discretion, disapprove the application and notify the applicant of the reason for its decision or ask the applicant to correct identified deficiencies in the application and resubmit it.

(b) Period of approval. Unless an approval is affected by an enforcement action under this part, an approval granted under this section shall be valid, as follows:

(1) Except as provided under paragraph (b)(3) of this section and under § 200.1427, the approval of an underwriter will not expire so long as the underwriter remains active and in the employment of the lender under which approval was granted, and without interruption.

(2) Except as provided in paragraphs (b)(3) of this section, or for reasons otherwise specified by HUD in writing, the approval of a lender as a MAP lender is valid for a period of 4 years from the date on which HUD notifies the lender of the approval;

(3)(i) A lender or underwriter without prior experience in processing or underwriting FHA loan applications may be eligible for conditional approval. Conditional approval will be valid for a period of one year from the date on which HUD notifies the applicant of the approval, unless HUD decides to allow an extension of the period of conditional approval for an additional

one-year period. During the conditional approval period, HUD may impose limits on the number of loan applications that may be submitted, or the number of units or dollar amount per loan application, or any combination of these limits.

(ii) To be eligible for conversion to full MAP approval status, the lender or underwriter must, during the period of conditional approval:

(A) Underwrite and submit to HUD loan applications that result in Firm Commitments from HUD, in a minimum number as specified by HUD at the time conditional approval is granted, in accordance with the applicant's experience;

(B) Satisfy any additional conditions that HUD has imposed on the lender or underwriter at the time the conditional approval was granted; and

(C) Demonstrate acceptable capacity to process and underwrite loan applications using FHA insurance programs for covered loan transactions for the tier for which conditional approval has been granted.

(iii) The approval of a lender or underwriter that is converted from conditional to full MAP approval status is valid, unless otherwise specified by HUD, for the remainder of the 4-year period beginning on the date that HUD notified the applicant of its initial conditional approval.

(iv) If a lender or underwriter does not comply with the requirements under paragraphs (b)(3)(ii)(A) through (C) of this section, HUD may extend the term of conditional approval or terminate the conditional approval.

§ 200.1419 Expiration of previously granted MAP approvals.

(a) Expiration. A MAP lender or underwriter approval that was granted by HUD prior to **[effective date of final rule to be inserted at the final rule stage]** shall expire upon the later of the following:

- (1) Four years following the date on which the approval was granted;
- (2) Forty-five days following the lender's or underwriter's receipt of a letter from HUD inviting the lender or underwriter to apply for tier approval, if by such date the lender or underwriter has not submitted an application in accordance with § 200.1413(c) or 1415(b); or
- (3) Upon HUD's notification of the lender or underwriter of the action HUD has taken on the lender or underwriter's application submitted in accordance with § 200.1413(c) or § 200.1415(b), provided that the lender or underwriter submitted the application within 45 days of the date of the lender or underwriter's receipt of a letter from HUD inviting the lender or underwriter to apply for tier approval.

(b) One-time approval at Tier 1 in absence of submission. A lender whose MAP approval was granted by HUD prior to **[effective date of final rule to be inserted at final rule stage]** and that does not submit an application in accordance with § 200.1413(c) within 45 days following the lender's receipt of a letter from HUD inviting the lender to apply for tier approval, shall be eligible for approval at Tier 1 for a period of time as provided in § 200.1417(b).

§ 200.1421 Renewal of lender approval.

(a) No later than 90 days before the date of the expiration of MAP-lender approval, the MAP lender may submit an application, in such form as required by HUD, for renewal of MAP-lender approval. The application for renewal must demonstrate that the lender continues to meet the applicable eligibility requirements under § 200.1411 and § 200.1413 of this part.

(b) HUD will review a lender's application for renewal of MAP approval, along with any information provided by HUD offices to which the applicant's loan applications or exhibits have been submitted within the previous approval period or periods, up to a maximum of 4 years. HUD may determine that the lender's experience or the performance of the lender's loans endorsed during the preceding 4 years is not sufficient for the lender to renew its approval at the current tier. In considering an application for renewal of MAP approval, HUD will follow the procedures and may take any action described in § 200.1417.

§ 200.1423 Adjustment of approval to a higher tier.

(a) An approved lender or underwriter may submit an application, in such form as required by HUD, for approval at a higher tier. The lender or underwriter must demonstrate that it meets the applicable eligibility requirements for the tier of approval that the lender or underwriter is seeking.

(b) HUD will review a lender or underwriter's application for MAP approval at a higher tier, along with any information provided by HUD offices where the applicant's loan applications or exhibits have been submitted within the previous approval period or periods, up to a total period of time as published by HUD for public comment. In considering an application for MAP approval at a higher tier, HUD will follow the procedures and may take any action described in § 200.1417. Approval of a MAP lender at a higher tier shall be valid as provided in § 200.1417(a)(1).

§ 200.1425 Post-approval underwriter training requirement.

Newly approved MAP underwriters must attend a MAP training session provided or approved by HUD in order to be eligible to satisfy the underwriter requirement at § 200.1411(a)(2).

§ 200.1427 Inactive underwriters.

An underwriter who at the time of the lender's annual certification to HUD pursuant to § 200.1407(d) has not submitted a pre-application or application for Firm Commitment for a period of 2 years will be designated as inactive. Inactive underwriters may be terminated from the MAP program because of inactivity and, if so, must reapply for approval to participate in MAP programs.

§ 200.1429 Appeals.

(a) An applicant may submit a written appeal of any HUD decision regarding the applicant under §§ 200.1411 through 200.1427 of this subpart. Any such appeal must be submitted to the designated HUD appeal official within 30 days of the date of receipt of HUD's written notification to the applicant of HUD's decision. HUD's written notification will advise who is the designated HUD appeal official and provide the address for such official. The written appeal may set forth the reasons why the HUD decision should be reconsidered or changed, or may request an informal conference, or both.

(b) HUD will respond to an applicant's appeal within 60 days from the date of HUD's receipt of the written appeal. If HUD's response to the appeal is to confirm HUD's original decision, no further appeal will be accepted from the applicant.

3. Immediately before § 200.1500, add an undesignated heading, to read as follows:

MAP LENDER QUALITY ASSURANCE ENFORCEMENT

4. In § 200.1505, revise paragraph (c) to read as follows:

§ 200.1505 Warning letter.

* * * * *

(c) Relationship to other sanctions. The issuance of a warning letter is not subject to the procedures in § 200.1535, and is not a prerequisite to the probation, or suspension, or termination of MAP privileges.

5. In § 200.1510, revise paragraphs (a) and (b)(1) to read as follows:

§ 200.1510 Probation.

(a) In general. HUD may place a lender on probation, in accordance with the procedures of § 200.1535.

(b) Effect of probation. (1) Probation is intended to be corrective in nature and not punitive. As a result, release from probation is conditioned upon the lender meeting a specific requirement or requirements, such as replacement of a staff member. A lender's failure to take prompt corrective action after being placed on probation may be the basis for a recommendation of either suspension or termination.

* * * * *

6. In § 200.1515, revise paragraph (a) to read as follows:

§ 200.1515 Suspension of MAP privileges.

(a) In general. HUD may suspend a lender's eligibility for MAP, in accordance with the procedures of § 200.1535.

* * * * *

7. In § 200.1520, revise paragraph (a) to read as follows:

§ 200.1520 Termination of MAP privileges.

(a) In general. Except as provided in paragraph (b) of this section, HUD may terminate a lender's MAP privileges in accordance with the procedures of § 200.1535.

* * * * *

8. In § 200.1525, revise paragraph (a) to read as follows:

§ 200.1525 Settlement agreements.

(a) HUD staff, as authorized, may negotiate a settlement agreement with a MAP lender before or after the issuance of a warning letter or referral to HUD.

* * * * *

9. In § 200.1535, revise the heading and paragraphs (a)(1) and (a)(2), paragraph (b) introductory text, and (f)(1) to read as follows:

§ 200.1535 Procedures for imposition of sanctions.

(a) Authority. (1) Sanctions. HUD may impose appropriate sanctions on a MAP lender after:

(i) Conducting an impartial review of all information and documentation submitted to HUD; and

(ii) Making factual determinations that there has been a violation of MAP requirements.

(2) Settlement agreements. HUD is authorized to approve settlement agreements in accordance with § 200.1525 of any pending matter.

* * * * *

(b) Notice of violation. Before HUD reviews a matter for consideration of a sanction, HUD will issue written notice of violation to the MAP lender's contact person as listed on the Multifamily MAP website. The notice is sent by overnight delivery and must be signed for by an employee of the MAP lender upon receipt. The notice:

* * * * *

(f) HUD action. (1) HUD will consider the evidence included in the administrative record and make a final decision concerning the matter. Any record of confidential communications within HUD at this stage of the proceedings is privileged from disclosure and will not be regarded as a part of the administrative record of any matter.

* * * * *

10. Revise the heading of § 200.1545 to read as follows:

§ 200.1545 Appeals of sanction decisions.

* * * * *

Dated: March 16, 2012

Carol J. Galante
Acting Assistant Secretary for Housing—Federal
Housing Commissioner

[FR-5444-P-01]

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